

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

RAMIRO PEREZ-CONTRERAS,

Petitioner,

v.

Case No. 05-C-1109

UNITED STATES OF AMERICA,

Respondent.

ORDER

Petitioner seeks relief from his sentence under 28 U.S.C. § 2255, claiming that his trial counsel was ineffective. His basis for asserting this claim is his counsel's alleged failure to adequately inform him about the so-called safety valve sentence reduction pursuant to U.S.S.G. § 5C1.2 and 18 U.S.C. § 3553(f). He claims he did not fully cooperate with the government, and thus did not receive the sentence reduction, because he was intimidated and fearful of becoming known as a cooperator. Underlying this argument is the suggestion that if his attorney had fully informed him about the benefits of cooperation, he would have done so.

Even assuming the legal viability of petitioner's claim, there is simply no factual basis for it. At the sentencing hearing, the petitioner himself recognized the value of cooperating, stating that he was sorry and did not want to put his family at risk. (*See* Docket #122, Case No. 03-CR-251.) He also heard his attorney describe the safety valve provision in open court and expressed no disagreement with his counsel's recitation of events. Indeed, his attorney discussed "the safety valve and my client's intentional choice not to avail himself of that possibility." He also discussed

in detail his client's decision not to meet with the government and provide truthful statements, and he described a two-and-one-half hour discussion about the issue with his client. (*Id.* at 5-8.) The defendant then confirmed in open court that everything his attorney said was true. (*Id.* at 9.) Accordingly, there is no basis to hold an evidentiary hearing in this case, and the petitioner offers no other occasion to believe that he was not fully informed about the safety valve provision. As such, there is no evidence of counsel's ineffectiveness, and the motion is denied. This case is dismissed.

SO ORDERED this 13th day of December, 2005.

s/ William C. Griesbach
William C. Griesbach
United States District Judge